

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BENITO VASQUEZ,

Plaintiff,

v.

KITSAP COUNTY; KITSAP COUNTY
TRANSIT,

Defendants.

CASE NO. C07-5576BHS

SHOW CAUSE ORDER RE
JURY DEMAND

This matter comes before the Court upon a review of the file.

I. BACKGROUND AND DISCUSSION

On February 21, 2008, the parties filed a joint status report indicating that Plaintiff demands a jury trial. Dkt. 26 at 4. Plaintiff did not demand a jury in his complaint or in a separate filing. *See* Fed. R. Civ. P. 38(b)(1) (parties may demand a jury trial in a pleading or in a separate written demand); Local Rule CR 38(b) (“Where jury trial is demanded in or by endorsement upon a pleading as permitted by Rule 38 of the Federal Rules of Civil Procedure, the words ‘JURY DEMAND’ shall be typed in capital letters on the first page immediately below the name of the pleading.”).

A party’s jury demand is due within ten days after the last pleading is served. Fed. R. Civ. P. 38(b)(1). If a jury trial is not properly demanded, the case is to be tried to the Court. Fed. R. Civ. P. 39(b). The Court may, upon a motion, order a jury trial on any

1 issues for which a jury trial could have been demanded. *Id.* The discretion to order a jury
2 trial in the absence of a proper demand is narrow and does not permit relief when a
3 party's failure to make a timely jury demand is the product of oversight or inadvertence.
4 *Pacific Fisheries Corp. v. HHH Cas. & Gen. Ins., Ltd.*, 239 F.3d 1000, 1002 (9th Cir.
5 2001).

6 In this case, Kitsap Transit's answer was filed on December 14, 2007, and Plaintiff
7 did not file a jury demand within ten days thereafter.

8 **II. ORDER**

9 Therefore, it is hereby

10 **ORDERED** that the parties shall **SHOW CAUSE**, if any they may have, why this
11 matter should not be set as bench trial. Such showing must be filed with the Court on or
12 before March 3, 2008. Responses may be filed on or before March 12, 2008, and replies
13 may be filed on or before March 20, 2008.

14 DATED this 22nd day of February, 2008.

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21 BENJAMIN H. SETTLE
22 United States District Judge
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